

Remarks

In the interest of focusing prosecution, Applicant has canceled claims 25-27 and 29-30, has amended claims 28 and 31-37, and has added new claims 39 and 40. Support for claims 39 and 40 can be found throughout the specification and in claims as previously filed. Entry and consideration of the amendments presented herein is respectfully requested. Favorable consideration of the currently pending claims is respectfully requested.

Claim rejections – 35 USC 112 second paragraph

Claim 25 was rejected as being indefinite. The preamble recites a device for packaging a lens and the body of the claim recites a device comprising a lens. Claim 25 was canceled. While moot for claim 25, the rejection was taken into consideration when formulating the preamble of new independent claim 39; all dependent claims were amended to avoid any ambiguity.

Claims 26-37 were objected to because they began with “a device” instead of “the device”. Claim 25-27 and 29-30 were canceled. All remaining dependent claims were amended as requested.

Claim rejections – 35 USC 103(a)

Claims 25, 27, 29 and 37 were rejected under 35 USC 103(a) as being unpatentable over Mazzocco (US 4,423,809) in view of Eagles et al. (US 5,616,148).

Claims 25, 27 and 29 were canceled. Claim 37 was amended to make it dependent from new claim 39. The rejections are therefore moot.

Claims 26 and 28 were rejected under 35 USC 103(a) as being unpatentable over Mazzocco (US 4,423,809) in view of Eagles et al. (US 5,616,148) as applied to claim 25 above, and further in view of Bazell et al. (US 3,930,580).

Claim 26 was canceled, and claim 28 was amended to make it dependent of new claim 39. Therefore, the rejections are moot.

Claims 25, 27 and 30-33 were rejected under 35 USC 103(a) as being unpatentable over Eagles et al. (US 5,616,148) in view of Mazzocco (US 4,423,809) and Feingold et al. (US 5,728,102).

Claims 25, 27 and 30 were canceled, and claims 31-33 were amended to make them dependent on new claim 39.

New independent claim 39 resembles previous claim 30. Therefore, applicant wishes to make the following remarks: Eagles et al. has been cited for the disclosure of an injection support (14) which is adapted to receive and carry the lens flat, the injection support including an implantation end (16) through which the lens can be slid and ejected for implantation, said injection support adapted to be associated with an injection device (12) including a thruster piston (18) able to push the lens toward the implantation end of the injection support (Fig.11-12), wherein the injection support is adapted to carry out folding of the lens prior to ejection of the latter via the implantation end (col.4,ln.43-col.5,ln.2) to safely compress the lens for delivery through a small incision in the eye. Mazzocco describes a liquid-filled flask closed by a cap, to which cap is attached a simple clamping mechanism that holds an intraocular lens. Applicant considers it as impossible to combine the latter two divergent disclosures to render applicant's device and lens as described in claims 30-33 obvious. No combination of features from the two references could result in the assembly of applicant's device of claims 30-33. Examiner has not presented a convincing line of reasoning for how combination of these references renders the subject device obvious. MPEP 706.02(j)(D). Feingold et al. does not cure this deficiency as it is only cited for the proposition that preloading an injector with a lens would be advantageous because it would reduce packaging and eliminate the step of placing a lens in the injector. For the same reasons rejection of claim 34 under 35 USC 103(a) as being unpatentable over Eagles et al. in view of Mazzocco and Feingold et al. as applied to claim 33 above, and further view of Figueroa et al. would not be proper; claim 34 has been amended to become dependent from new claim 39.

If Examiner intends to issue the same rejection against new claim 39 and dependent claims in her next Office Communication, she is respectfully requested to support it with a proper argument comprising the required "convincing line of reasoning".

Claims 25, 27, 30, 31, 35, and 36 were rejected under 35 USC 103(a) as being unpatentable over Figueroa et al. (US 5,873,879) in view of Mazocco (US 4,423,809).

Claims 25, 27 and 30 were canceled, and claims 31, 35 and 36 were amended to make them

dependent on new claim 39. Hence, the rejections have become moot. However, in view of the fact that new independent claim 39 resembles canceled claim 30, applicant wishes to make the following argument:

Figueroa describes and claims

“1. A device for inserting a flexible intraocular lens having an optic portion and a haptic portion into an eye, said device comprising:

a tubular member including a passage for receiving a lens, said passage having an open distal end for inserting the lens into an eye and a staging area for supporting the lens in a substantially unstressed state, said staging area including proximal and distal supporting surfaces for supporting the haptic portion of the lens so that the optic portion of the lens is suspended to substantially avoid contact of the optic portion with interior portions of said tubular member in said substantially unstressed state; and

a plunger being movably received within said passage of said tubular member for moving the lens through said open distal end of said tubular member and into the eye.”

Examiner observed that “Figueroa et al. fail to disclose a hydrophilic lens and a packaging enclosing at least the lens, the injection support and a volume liquid solution which bathes the lens and keeps it hydrated” and suggested that Mazzocco could supplement the missing features. However, Mazzocco describes nothing but a lens storage solution comprising a liquid-filled flask closed by a cap, to which cap is attached a simple clamping mechanism that holds an intraocular lens. Mazzocco’s device is intended for flexible lenses, not hydrophilic lenses in particular. See col.7, ln.27-32 for lens materials for hydrophilic and hydrophobic lenses. No combination of features described in Mazzocco and Figueroa et al. will result in applicant’s device as claimed in claims 30-36. Examiner has not presented a convincing line of reasoning for how combination of these references renders the subject device obvious, i.e., of how the teachings of these references can be combined without inventive step to produce the invention described in claims 30-36. The mere suggestion that Mazzocco bathes a lens in a liquid and that this concept somehow could be combined with that of a lens injector such as that described in Figueroa et al. hardly represents the required convincing line of reasoning. If Examiner intends to issue the same rejection against new claim 39 and dependent claims in her next Office Communication, she is respectfully requested to support it with a proper argument comprising “a convincing line of reasoning”.

In view of the foregoing remarks and amendments to the claims, Applicant believes that the currently pending claims are in condition for allowance, and such action is respectfully requested.

Applicant invites the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. Voellmy', with a stylized flourish at the end.

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